

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 94-712-C - ORDER NO. 95-1007 ✓  
APRIL 28, 1995

IN RE: Application of American Communications	)	ORDER
Services, Inc. for a Certificate of	)	GRANTING IN
Public Convenience and Necessity to	)	PART AND
Provide Private Line and Special	)	DENYING IN
Access Services within the State of	)	PART MOTION
South Carolina.	)	TO COMPEL

This matter comes before the Public Service Commission of South Carolina (the Commission) on the March 16, 1995 Motion to Compel filed in this Docket by Southern Bell Telephone and Telegraph Company (Southern Bell). In its Motion, Southern Bell moves this Commission for an Order compelling American Communications Services, Inc. (ACSI) to fully respond to certain interrogatories and requests for production of documents propounded by Southern Bell. ACSI filed a reply to this Motion on or about April 7, 1995. Following this, the Commission held oral arguments on April 20, 1995, at 11:30 a.m., with the Honorable Rudolph Mitchell, presiding. Southern Bell was represented by Harry M. Lightsey, III, Esquire, William F. Austin, Esquire, and Nancy White, Esquire; ACSI was represented by Russell B. Shetterly, Esquire, and Knox H. White, Esquire; the Intervenor, Consumer Advocate for the State of South Carolina was represented by Elliott F. Elam, Jr., Esquire; the South Carolina Telephone

Association and South Carolina Telephone Coalition were represented by Margaret Fox, Esquire; and the Commission Staff was represented by F. David Butler, General Counsel.

Upon consideration of the oral arguments, and after due deliberation, the Commission holds that it must grant in part and deny in part the Motion to Compel filed by Southern Bell. The Commission will now elaborate in the following paragraphs.

With regard to Interrogatory 1.4(a), the Commission orders ACSI to respond. However, the response shall be limited to streets, not street addresses. The Interrogatory as drawn is overbroad, and it will not likely lead to the discovery of admissible evidence in this proceeding.

With regard to Interrogatory 1.28, the Commission denies Southern Bell's Motion to Compel, in that, the question asked is also overbroad, and is not likely to lead to the discovery of admissible evidence. Further, the Commission denies Southern Bell's Motion to Compel on Interrogatory No. 1.45, 1.10(b), and 1.19 on the same basis.

With regard to Interrogatory 1.20, ACSI is hereby ordered to answer the following alternate question: Is there or will there be any bypass of the local exchange company (LEC)? ACSI is not required to answer the prior question as propounded by Southern Bell, as the question is overbroad.

With regard to Interrogatory 1.21, the Commission believes that Southern Bell states good cause in its Motion to Compel, and ACSI is thereby required to answer.

With regard to Interrogatory 1.27, the Commission believes that Southern Bell has stated good cause for ACSI to answer. However, the Commission believes that the response should be limited to a description of the agreement without a reference to the name of the company. The question as stated is overbroad.

Considering Interrogatory 1.31, the Commission believes that ACSI should respond to the question. However, the Commission believes that the response should be limited to location by city, not by specific customer. The question as stated is overbroad.

With regard to Interrogatories 1.44 and 1.47, the Commission hereby denies the Motion to Compel based on the overbreadth of the question and the fact that the questions are not designed to lead to admissible evidence.

With regard to Production of Documents 1.3, the Commission denies Southern Bell's Motion to Compel based on overbreadth.

With regard to Production of Documents 1.4, the Commission holds that ACSI is required to respond to the request. However, the contracts specified should be provided with the customer's names deleted.

With regard to Request for Production of Documents 1.7, ACSI is required to respond to the request. However, the response will be filed with the Commission and Consumer Advocate only. Should any other party request a copy of this response, the Commission will decide as to the merits of the request for this response from other parties.

The Commission hereby denies Southern Bell's Motion to Compel

on the following, based on overbreadth, and the fact that the information sought will not lead to the discovery of admissible evidence:

Production of Documents 1.9

Interrogatory 1.12(c)

Interrogatory 1.14(d)

Interrogatory 1.20

Interrogatory 1.28

Interrogatory 1.45

Interrogatory 1.53

Interrogatory 1.62

Interrogatory 1.63

Interrogatory 1.5 and

Interrogatory 1.6.

The Motion to Compel is granted with regard to Interrogatory 1.49.

With regard to Interrogatory 1.15(e), 1.16, and 1.17, the Commission holds that ACSI is required to respond. However, the response is not required to be customer specific in these interrogatories. The questions as stated are overbroad.

On consideration of Interrogatory 1.25(f), ACSI is required to respond to the interrogatory. However, the response will be filed with the Commission and Consumer Advocate only. Should any other party request a copy of this response, the Commission will decide as to the merits of the request for this response from other parties.

With regard to Interrogatory 1.34, ACSI is required to respond. However, again, the response will be filed with the Commission and Consumer Advocate only. Should any other party request a copy of this response, the Commission will decide as to the merits of the request for this response from other parties. The Commission holds the same for Interrogatory 1.40.

With regard to Interrogatories 1.35, 1.36, and 1.39, the Commission denies Southern Bell's Motion to Compel based on overbreadth, and the fact that the information will not lead to admissible evidence in this proceeding. The Commission makes the identical holdings on Interrogatories 1.41 and 1.10.

The Commission holds that ACSI is required to respond to Interrogatories 1.32(f) and 1.33. The Motion to Compel ACSI to respond to Production of Documents 1.10 is hereby denied and the Request is deleted.

It should be noted that ACSI should furnish these responses, after provision and execution of a Confidentiality Agreement by all parties which will receive the responses. The Commission hereby holds that these responses shall be provided upon execution of a Confidentiality Agreement by Friday April 28, 1995 as noted above.

In addition, Southern Bell is hereby granted a one (1) week extension to pre-file its testimony until on or before Friday, May 5, 1995. Southern Bell shall serve its pre-filed testimony on all parties, as per the Commission's regulations. Further, Southern Bell may supplement its testimony at a later date, if the Supplemental Testimony is based solely on these responses.

The Commission has examined this entire matter, and after due consideration, believes that the holdings above are in the public interest, and balance equitably the interests of the Applicant and the Intervenor Southern Bell.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)